

April 4, 1973

what would meet the constitutional test and Senator Carpenter is the one who opposed all amendments to this bill. I think it ought to stand or fall just as it is written, because to take any substantial part from this bill would put it. I think the whole thing is unconstitutional, I think it is impossible to pass a death penalty bill which is constitutional based on the guide lines laid down by the Supreme Court, I would also call to your attention the fact that when Philadelphia, Pennsylvania, yesterday or the day before tried to get the Supreme Court to allow them to argue and show that the way that they impose the death penalty was constitutional, the Supreme Court refused to hear their arguments so their position still is that the death penalty is unconstitutional. I think this is a waste of time to add the severability clause, I think LB 268 is an exercise in futility, it is a waste of time, it is a political boondoggle, I think that is why the bill was introduced and it ought to stand just as it is, and those who want to make political hay from it can make just as much in it's present form as they could without cluttering it, with a severability clause. The severability clause gives the appearance of respectability to a bill which no matter what you do with it can be made respectable.

SPEAKER: Senator Stahmer.

SENATOR STAHMER: Mr. President and members of the body. In seriousness I have not supported this bill in the past, but I would support the adoption of this measure, I think in any measure of any magnitude it is good Government and good sense both to have a clause in the bill whether legally it does or does not add anything to the bill, to protect whatever portions might be legal and constitutional and although I have not supported the bill in the past, I do think in deference to Senator Rasmussen, we should adopt this clause.

SPEAKER: Are you ready for the question? Senator Fellman.

SENATOR FELLMAN: Mr. President, I would like to be very brief, and maybe address my remarks to Senator Stahmer, or any other Senator who is opposed to this bill. If you are opposed to this bill, I think you should vote against the severability clause, Senator Chambers is correct. If you favor the bill obviously you'll want it in there, but I don't think it's very logical to put this on if you are against the bill.

SPEAKER: Senator Fred Carstens.

SENATOR CARSTENS: Mr. President, and members, I have read this bill a good many times and each section is tied in with the other, and if any part of this bill is declared unconstitutional the entire bill is gone down the drain, so it doesn't make any difference, whether the severability clause is on or not.

SPEAKER: Any further discussion? The question now is, whether or not to adopt Senator Carpenter's amendment to the bill which would require this severability clause. If you are in favor of this severability clause, vote aye, if you are opposed to it vote no. Have you all voted? The Clerk will record.

CLERK: 22 ayes, 13 nays. Mr. President.

SPEAKER: The severability clause is adopted. The severability -- not for an amendment. Wait a minute we are on select, pardon me, we are on select file that is correct, this does require 25 votes, only 22, so the motion is lost. Senator Skarda.

SENATOR SKARDA: Your too late, you called the shot.

SPEAKER: I certainly did. Now Senator Carpenter -

SENATOR CARPENTER: I was absent I presume I have the right to